

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JORGE LUIS GONZALEZ,

Plaintiff,

v.

DIRECTOR'S REVIEW COMMITTEE,

Defendant.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-11-1759

ORDER OF DISMISSAL

Jorge Luis Gonzalez, state inmate #1314513, proceeding *pro se* and seeking leave to proceed *in forma pauperis*, files this section 1983 lawsuit complaining of the loss of \$22.00 worth of photographs he ordered through the mail. He reports that, although most of the photographs he ordered were confiscated by mail room officers as sexually-explicit contraband, the eighteen remaining photographs were lost or stolen by the "Director's Review Committee" during his transfer to another prison unit.

Having reviewed plaintiff's complaint pursuant to section 1915A, the Court DISMISSES this lawsuit as frivolous and for failure to state a claim, as follows.

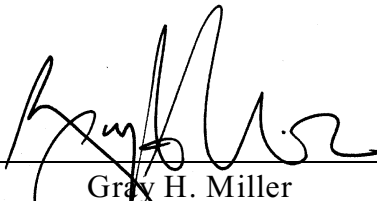
Negligent, or even intentional, deprivation of a prisoner's property by state officials that is random and unauthorized does not rise to the level of a constitutional violation or a cognizable claim under section 1983 if state law provides an adequate post-deprivation remedy. *Hudson v. Palmer*, 468 U.S. 517, 533-34 (1984). Texas provides an adequate remedy for inmates whose property has been taken or destroyed in an unauthorized manner.

See Myers v. Klevenhagen, 97 F.3d 91, 95 (5th Cir. 1996); *Aguilar v. Chastain*, 923 S.W.2d 740, 743-44 (Tex. Crim. App. 1996); *see also* TEX. GOV'T CODE §§ 501.007, 501.008. Because Texas provides an adequate post-deprivation remedy, plaintiff's claim that his property was wrongfully taken or lost has no basis in federal law, and he fails to state a claim for which relief can be granted under section 1983. *See Murphy v. Collins*, 26 F.3d 541, 543-44 (5th Cir. 1994); *see also Nelson v. TDCJ*, 124 F. App'x 897, 898, 2005 WL 673367 (5th Cir. 2005) (holding that the both the civil rights lawsuit and appeal from dismissal of a prisoner's suit seeking compensatory damages for loss of personal property were frivolous).

Plaintiff's claim for the loss of his photographs is DISMISSED as frivolous and for failure to state a claim under 28 U.S.C. § 1915(e). Any and all pending motions are DENIED AS MOOT. This dismissal constitutes a "strike" for purposes of section 1915(g).

The Clerk will provide copies of this order to the parties.

Signed at Houston, Texas, on May 12, 2011.



Gray H. Miller
United States District Judge